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UNITED STATES DISTRICT COURT
FOR THE STATE OF NEVADA

SETH SCHORR,

Plaintiff,

vs.

WOLFF PRINCIPAL HOLDINGS, LP d/b/a
FREMONT & 9TH APARTMENTS;
SCHINDLER ELEVATOR CORPORATION;
DOES I through X; and ROE BUSINESS
ENTITIES I through X, inclusive,

Defendants,

and related cross-claims.

Case No. 2:22-cv-01806-MMD-MDC

**JOINT STIPULATION AND ORDER
TO EXTEND DISCOVERY AND
DISPOSITIVE MOTION DEADLINES**

(FIFTH REQUEST)

IT IS STIPULATED AND AGREED, by and between Plaintiff Seth Schorr, by and through his attorney of record, Nia Killebrew, Esq. of Richard Harris Law Firm; Defendant Wolff Principal Holdings, LP d/b/a Fremont & 9th Apartments, by and through its attorney of record, David S. Lee, Esq. of Lee, Landrum & Ingle, and Defendant Schindler Elevator Corporation, by and through its attorney of record, Jay J. Schuttert of Evans Fears Schuttert McNulty Mickus, that the October 28, 2024 discovery and November 25, 2024 dispositive motion deadlines in the Stipulation and Order to Modify Discovery Plan and Scheduling Order to Extend Discovery Deadlines [ECF NO. 34] be continued by 90 days as follows:

I. DISCOVERY COMPLETED TO DATE

- The parties participated in the Fed. R. Civ. P. 26(f) conference on December 6, 2022.
- Plaintiff produced his Initial Fed. R. Civ. P. 26(a) Disclosures on December 9, 2022.
- Plaintiff produced his 1st Supplement to Initial Fed. R. Civ. P. 26(a) Disclosures on March 6, 2023.
- Defendant Wolff Principal Holdings, LP dba Fremont & 9th Apartments produced its Initial Fed. R. Civ. P. 26(a) Disclosures on January 25, 2023.
- Defendant Schindler Elevator Corporation produced its Initial Fed. R. Civ. P. 26(a) Disclosures on January 4, 2023.
- Defendant Schindler Elevator Corporation produced its 1st Supplement to its Initial Fed. R. Civ. P. 26(a) Disclosures on February 3, 2023.
- Plaintiff served Interrogatories and Requests for Production of Documents to Defendant Wolff Principal Holding, LP dba Fremont & 9th Apartments.
- Plaintiff served Interrogatories and Request for Production of Documents to Defendant Schindler Elevator Corporation.
- Defendant Wolff Principal Holding, LP dba Fremont & 9th Apartments served 1st Set of Interrogatories and 1st Set of Request for Production of Documents to Plaintiff.
- Defendant Wolff Principal Holding, LP dba Fremont & 9th Apartments served 2nd Set of Interrogatories and 1st Set of Requests for Admissions to Plaintiff.
- Defendant Wolff Principal Holding, LP dba Fremont & 9th Apartments served 1st Set of Interrogatories 1st Set of Request for Production of Documents and 1st Set of Requests for Admissions to Defendant Schindler Elevator Corporation.
- Defendant Schindler Elevator Corporation served 1st Set of Interrogatories and 1st Set of Requests for Production of Documents to Plaintiff.
- Plaintiff served his responses to Defendant Wolff Principal Holding, LP dba Fremont & 9th Apartments' 1st Set of Interrogatories, 2nd Set of Interrogatories, 1st Set of Request for Production of Documents, and 1st Set of Requests for Admissions.

- 1 • Plaintiff served his responses to Schindler Elevator Corporation' 1st Set of Interrogatories
2 and 1st Set of Requests for Production of Documents, 2nd Set of Interrogatories and 2nd
3 Set of Requests for Production of Documents.
- 4 • Defendant Schindler Elevator Corporation served its responses to Defendant Wolff
5 Principal Holding, LP dba Fremont & 9th Apartments' 1st Set of Request for Production
6 of Documents and 1st Set of Requests for Admissions.
- 7 • Defendant Schindler Elevator Corporation produced its 2nd Supplement to its Initial Fed.
8 R. Civ. P. 26(a) Disclosures on April 17, 2023.
- 9 • Plaintiff produced his 2nd Supplement to Initial Fed. R. Civ P. 26(a) Disclosures on April
10 21, 2023.
- 11 • The parties and their experts conducted an inspection of the subject elevator on May 4,
12 2023.
- 13 • Plaintiff produced his 3rd Supplement to Initial Fed. R. Civ P. 26(a) Disclosures on May
14 23, 2023.
- 15 • Plaintiff produced his 4th Supplement to Initial Fed. R. Civ P. 26(a) Disclosures on June
16 22, 2023.
- 17 • Defendant Schindler Elevator Corporation produced its 3rd Supplement to its Initial Fed.
18 R. Civ. P. 26(a) Disclosures on July 5, 2023.
- 19 • Plaintiff produced his 5th Supplement to Initial Fed. R. Civ P. 26(a) Disclosures on July
20 11, 2023.
- 21 • Defendant Schindler Elevator Corporation produced its 4th Supplement to its Initial Fed.
22 R. Civ. P. 26(a) Disclosures on July 19, 2023.
- 23 • Plaintiff produced his 6th Supplement to Initial Fed. R. Civ P. 26(a) Disclosures on July
24 25, 2023.
- 25 • Plaintiff produced his 7th Supplement to Initial Fed. R. Civ P. 26(a) Disclosures on
26 August 10, 2023.
- 27 • Defendant Schindler Elevator Corporation produced its 5th Supplement to its Initial Fed.
28 R. Civ. P. 26(a) Disclosures on September 7, 2023.

- 1 • Plaintiff produced his 8th Supplement to Initial Fed. R. Civ P. 26(a) Disclosures on
- 2 September 7, 2023.
- 3 • The deposition of Plaintiff Seth Schorr was taken on September 17, 2023.
- 4 • Plaintiff produced his 9th Supplement to Initial Fed. R. Civ P. 26(a) Disclosures on
- 5 September 28, 2023.
- 6 • Plaintiff produced his 10th Supplement to Initial Fed. R. Civ P. 26(a) Disclosures on
- 7 November 1, 2023.
- 8 • The independent medical examination of Plaintiff was performed on November 20, 2023.
- 9 • Defendant Schindler Elevator Corporation produced its 6th Supplement to its Initial Fed.
- 10 R. Civ. P. 26(a) Disclosures on December 6, 2023.
- 11 • The deposition of Schindler employee Michael Patton was taken on December 7, 2023.
- 12 • Plaintiff served his 3rd Set of Requests for Production of Documents to Schindler.
- 13 • The deposition of Defendant Wolff employee Flavio Rubio was taken on January 23,
- 14 2024.
- 15 • Defendant Schindler Elevator Corporation produced its 7th Supplement to its Initial Fed.
- 16 R. Civ. P. 26(a) Disclosures on March 6, 2024.
- 17 • The deposition of Defendant Wolff employee Penny Killen was taken on March 26, 2024.
- 18 • Defendant Schindler Elevator Corporation served its responses to Plaintiff's 3rd Set of
- 19 Requests for Production of Documents.
- 20 • Defendant Schindler Elevator Corporation produced its 8th Supplement to its Initial Fed.
- 21 R. Civ. P. 26(a) Disclosures on April 18, 2024.
- 22 • The deposition of Schindler mechanic Joseph Hobby was taken on April 30, 2024.
- 23 • Plaintiff served his 4th Set of Requests for Production of Documents to Schindler.
- 24 • Defendant Schindler Elevator Corporation served its responses to Plaintiff's 4th Set of
- 25 Requests for Production of Documents.
- 26 • Plaintiff served his responses to Schindler's 2nd Set of Interrogatories.
- 27 • Plaintiff produced his Initial Expert Disclosures on July 29, 2024.
- 28

- Defendants Schindler Elevator Corporation and Wolff produced their Initial Expert Disclosures on September 3, 2024.
- The deposition of state inspector Ronnie Blakeny was taken on September 5, 2024.
- Rebuttal expert disclosures are presently due on October 1, 2024

II. DISCOVERY TO BE COMPLETED

Plaintiff and Defendants respectfully request a 90-day extension of the October 28, 2024 discovery cut-off date and November 25, 2024 dispositive motion deadline to complete the following discovery:

- Conduct the deposition third-party elevator inspector Greg Neff on November 21, 2024.
- Conduct the Fed. R. Civ. P. 30(b)(6) deposition of Schindler's corporate designee.
- Conduct the depositions of the parties' expert witnesses.
 - Plaintiff has disclosed Dennis Olson, Dr. David Olivieri, and Dr. Mihir Patel as his expert witnesses.
 - Defendant Schindler has disclosed John Donnelly, Hanh Le, Dr. Staci Ross, Dr. Daniel Lee, and Dr. Roger Fontes as its expert witness.
 - Defendant Wolff has disclosed Michael Fagan, Dr. Staci Ross, Dr. Daniel Lee, and Dr. Roger Fontes as its expert witness.¹
- The parties are presently working out a schedule for the depositions of the above 9 expert witnesses. The parties expect that some depositions will be taken via videoconference and others will be taken in-person. At least three of the expert witnesses are located outside the State of Nevada.

III. REASONS DISCOVERY WAS NOT COMPLETED AND GOOD CAUSE FOR A DISCOVERY EXTENSION

Good cause exists to extend discovery deadlines "if it cannot reasonably be met despite the diligence of the party seeking the extension." *Johnson v. Mammoth Recreations*, 975 F.2d 604, 609 (9th Cir. 1992). The parties have been working diligently to complete discovery in this case.

¹ Defendants Wolff and Schindler have co-retained Drs. Ross, Lee, and Fontes.

1 However, nine expert depositions will need to be conducted following the disclosure of rebuttal
 2 experts on October 1, 2024. In addition, one additional fact witness (third-party inspector Greg
 3 Neff) deposition has been scheduled for November 21, 2024 due to the scheduling conflicts of
 4 Schindler's counsel as outlined below. Schindler's counsel, Jay J. Schuttert, will be out-of-state
 5 for a multi-week product liability trial from late September through late October 2024. Specifically,
 6 Mr. Schuttert is admitted *pro hac vice* and will be involved in the *Hoffman v. Monsanto* (Case No.
 7 22AC-CC00970) trial that is pending in Cole County, Missouri before Judge Daniel Green. The
 8 trial is scheduled to begin on October 7, 2024 with pre-trial conferences scheduled for the week of
 9 September 30, 2024. Because this trial is expected to take 3-4 weeks, it will obviously impede
 10 Schindler's ability to schedule and/or participate in these 10 depositions before the current October
 11 28, 2024 discovery cut-off date.

12 Given Mr. Schuttert's trial conflict as well as the upcoming Thanksgiving and
 13 Christmas/New Year's holidays, Plaintiff and Defendants agree to a proposed extension of the
 14 current October 28, 2024 close of discovery and the November 25, 2024 dispositive motion
 15 deadline by 90 days. Accordingly, no party is prejudiced by the additional time necessary to
 16 conduct the remaining discovery. Counsel for the parties have been diligently working together to
 17 prepare this stipulation and obtain an extension of these two case management deadlines. All of
 18 the foregoing circumstances constitute good cause to extend the discovery cut-off date and
 19 dispositive motion deadline, and the parties jointly and in good faith request this Court enter an
 20 Order extending the scheduling deadlines in accordance with their stipulation. There is no trial
 21 date set in this case.

22 **IV. PROPOSED REVISED DISCOVERY PLAN**

23 The parties hereby stipulate to and propose the following amendments to the current
 24 scheduling deadlines:

	Old Deadline	New Deadline
25 Final date to amend pleadings		
26 or add parties:	July 29, 2024	COMPLETED
27 Plaintiff's initial expert disclosures:	July 29, 2024	COMPLETED
28		

Defendants' initial expert disclosures:	September 3, 2024	COMPLETED
Rebuttal expert disclosures:	October 1, 2024	NO CHANGE
Discovery cut off:	October 28, 2024	January 27, 2025
Dispositive motions:	November 25, 2024	February 24, 2025
Pre-Trial Order:	December 20, 2024	March 24, 2025
No trial date has been set.		

SUBMITTED BY THE FOLLOWING COUNSEL OF RECORD:

Dated: September 13, 2024.

**EVANS FEARS SCHUTTERT MCNULTY
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/s/ Jay J. Schutttert

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/s/ Nia C. Killebrew

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Las Vegas, NV 89101

Attorneys for Plaintiff Seth Schorr

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ORDER

IT IS SO ORDERED. Based upon the foregoing stipulation, the 90-day extension to discovery deadlines are granted as follows:

	Old Deadline	New Deadline
Final date to amend pleadings or add parties:	July 29, 2024	COMPLETED
Plaintiff's initial expert disclosures:	July 29, 2024	COMPLETED
Defendants' initial expert disclosures:	September 3, 2024	COMPLETED
Rebuttal expert disclosures:	October 1, 2024	NO CHANGE
Discovery cut off:	October 28, 2024	January 27, 2025
Dispositive motions:	November 25, 2024	February 24, 2025
Pre-Trial Order:	December 20, 2024	March 24, 2025
No trial date has been set.		

Any future request to extend discovery will require a showing of compelling grounds.


 Hon. Maximiliano D. Couvillier III
 UNITED STATES MAGISTRATE JUDGE
 DATED: 9/17/24
 Case No. 2:22-cv-01806-MMD-MDC

Respectfully submitted by:

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